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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,197	06/24/2003	Aiko Hanyu	COS-766 DIV	2213

7590 11/16/2005  
Fina Technology, Inc.  
PO Box 674412  
Houston, TX 77267-4412

EXAMINER
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EASHOO, MARK

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/602,197

Applicant(s)

HANYU ET AL.

Examiner

Mark Eashoo, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bothe et al. (US Pat. 5,254,394) in view of either Peet (US Pat. 6,387,529).

Bothe et al. teaches the basic claimed process of making a multilayer film having a substrate layer and an surface layer, comprising: extruding a base/substrate isotactic polypropylene layer (4:35-5:40); extruding a syndiotactic polypropylene surface layer (example 1); bonding/coextruding the layers (4:35-5:40); biaxially orienting/stretching the film (4:35-5:40); and a surface layer thickness less than the base/substrate thickness (4:35-45).

Bothe et al. teaches a first crystalline thermoplastic polymer, namely isotactic polypropylene having a melting point of about 140°C. It is submitted that the extrusion temperature of this polymer and others is known to be between its melting point and decomposition temperature and would have been optimized by a person of ordinary skill in the art in order to obtain the desired film properties in the final product.

Bothe et al. does not teach a surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes. However, either Peet (2:40-45 and 4:1-20) teaches surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes. Bothe et al. and Peet are combinable because they are from the same field of endeavor, namely, multi-layer films. At the time of invention a person of ordinary skill in the art would have found it obvious to have used a surface layer comprising syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes, as taught by Peet, in the process of Bothe et al., and would have been motivated to do so because Peet suggests that syndiotactic polypropylene having a melt flow index/rate of less than 2 grams/10 minutes is suitable for surface layers of multilayer films.

The examiner recognizes that all of the claimed effects and physical properties are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, process steps, and process conditions. Therefore, the claimed effects and physical properties would inherently be achieved by carrying out the disclosed

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process. If it is applicants' position that this would not be the case: (1) evidence would need to be presented to support applicants' position; and (2) it would be the examiner's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects by carrying out only these process steps.

Bothe et al. does not teach extrusion coating an oriented substrate. Nonetheless, Official Notice is given that co-extrusion, extrusion coating, and laminating are well known molding techniques to form multi-layer films. A person of ordinary skill in the art would have found it obvious to have used extrusion coating and/or laminating, as commonly practice in the art, in the process of Bothe et al., and would have been motivated to do so because such techniques are know equivalent and alternative process steps.

### ***Response to Arguments***

Applicant's arguments filed 02-NOV-2005 have been fully considered but they are not persuasive, because:

A.) Applicant's arguments that the desired goal of Bothe cannot be met by the teachings of Peete is not persuasive because the portions of the references referred to in Applicant's argument do not sufficiently support applicant's position with regard to MFI differences. It is noted that arguments of counsel cannot take place of evidence in the record. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

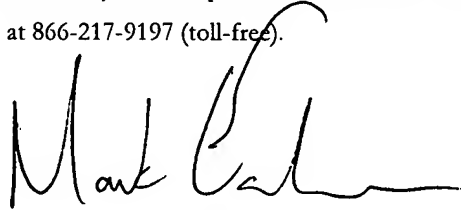
### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Mark Eashoo". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Eashoo, Ph.D.  
Primary Examiner  
Art Unit 1732

November 10, 2005  
me

10/Nov/05